

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
McALLEN DIVISION**

MAURO CARDENAS

VS.

**MARTIN TRANSPORTATION
SYSTEMS, INC.**

CIVIL ACTION No.:

JURY DEMANDED

PLAINTIFF'S ORIGINAL COMPLAINT & JURY DEMAND

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff files Plaintiff's Original Complaint, complaining of Defendants, Martin Transportation Systems, Inc. For cause of action, Plaintiff would show the Honorable Court as follows:

I.

PARTIES

- 1.1 Plaintiff Mauro Cardenas is an individual residing in McAllen, Texas.
- 1.2 Defendant, Martin Transportation Systems, Inc. is a federal motor carrier with a terminal located in Texas. It may be served with citation by serving its registered agent for service of process CT Corporation Systems, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

II.

JURISDICTION

- 2.1 Plaintiff brings this lawsuit under 28 U.S.C. Section 1332 (a)(2).

III.

VENUE

- 3.1 Defendant is deemed to reside in the Southern District of Texas because it is amenable to jurisdiction in the Southern District of Texas. 28 U.S.C. § 1391(a)(1), (c). Therefore, venue

is proper in the Southern District of Texas.

IV.

FACTS

- 4.1 Defendant Martin Transportation Systems, Inc. is a motor carrier licensed by and registered with the Federal Motor Carrier Safety Administration, which has conducted systematic, continuous business activities throughout and within Texas at its terminal located in Laredo, Texas.
- 4.2 Defendant Martin Transportation Systems, Inc. hired, qualified, trained, and retained Dave M. Cvitanovich as a truck driver.
- 4.3 At all times relevant to this lawsuit, Dave M. Cvitanovich was acting in the course and scope of his actual and/or statutory employment with Defendant Martin Transportation Systems, Inc.
- 4.4 On or about November 4, 2015 Plaintiff was involved in a motor vehicle collision with a tractor trailer rig driven by Dave M. Cvitanovich.
- 4.5 Dave M. Cvitanovich failed to pay attention, failed to control his speed, failed to timely apply his brakes or take evasive action, and struck Plaintiffs' vehicle.
- 4.6 Plaintiff was injured and suffered damages as a result of the collision.

V.

CAUSE OF ACTION

- 5.1 Dave M. Cvitanovich was negligent in the operation of the Martin Transportation Systems, Inc. tractor trailer.
- 5.2 Specifically, Dave M. Cvitanovich failed pay attention, failed to control his speed, and failed to apply his brakes and/or take evasive action to avoid striking Plaintiff's vehicle.
- 5.3 As a direct and proximate result of Defendants' negligence, Plaintiff sustained personal injuries and damages.
- 5.4 Defendant Martin Transportation Systems, Inc. is vicariously liable for the negligence of Dave M. Cvitanovich under the statutory employment doctrine as well as the doctrine of

respondeat superior.

- 5.5 Based on the facts of this wreck, Dave M. Cvitanovich may have been fatigued or driving in violation of federal and state hours-of-service regulations.
- 5.6 It further appears that Defendant Martin Transportation Systems, Inc. may have been negligent in its entrustment of a tractor-trailer to Dave M. Cvitanovich, and in the qualification, hiring, training, supervision, and retention of Dave M. Cvitanovich.

VI.

DAMAGES

- 6.1 Plaintiff seeks to recover the following elements of damages, which were proximately caused by Defendants' negligence:
 - A. Medical care, past and future;
 - B. Lost wages and earning capacity, past and future;
 - C. Physical impairment, past and future;
 - D. Physical pain, emotional distress, and mental anguish, past and future; and
 - E. Disfigurement, past and future.
- 6.2 Plaintiff also seeks to recover prejudgment interest, post-judgment interest, and court costs
- 6.3 Plaintiff's damages exceed \$75,000.
- 6.4 Plaintiff seeks compensatory damages in excess of \$1,000,000.

VII.

JURY DEMAND AND PRAYER

- 7.1 Plaintiff respectfully requests a jury trial in this matter.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that citation be issued and Defendant be served, and upon trial on the merits the Court enter judgment for Plaintiff and against Defendant for actual damages, together with prejudgment interest, postjudgment interest, and court costs.

Respectfully submitted,

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